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SUBJECT: FRENCH OUTCRY AGAINST THE SERVICES DIRECTIVE FUELS
THE "NO" VOTE AGAINST THE EUROPEAN CONSTITUTION

REF: A) PARIS 1833 B) BRUSSELS 732

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11. SUMMARY. (U) Recent polls showing the anti-European Constitution vote taking the lead in France are forcing the Chirac government to take an even harder line against the European Commission's proposed Services Directive. French President Jacques Chirac strongly restated France's position on the so-called "Bolkestein directive" regulating services to EU Commission President Barroso over the March 12-13 weekend, calling the current text "unacceptable" and that it must be "completely re-examined". The GOF had previously been fairly supportive of the concept of liberalizing the services market. But in the past weeks, the public and politicians, left and right, have become seized with the impression that the Services Directive represents just the kind of unbridled free market concept of Europe that France and the French have generally opposed. Critics charge the directive will create "social dumping", with hordes of new Europeans working in France at low wages and under different rules. The GOF is redoubling its efforts in Brussels to drastically modify the present text and politicians are trying to limit the broader political fallout and impact on the more important May 29th referendum. END SUMMARY

CHANGING COURSE

12. (U) Chirac's reaffirmation of French opposition to the services directive in the face of a strong public outcry comes as something of a change of course. But with new polls showing the "No" vote overtaking the "Yes" vote on the Constitution, the need to salvage the government's position has become paramount. Somewhat taken aback by the vehement public opposition to the Services Directive, French officials in the Foreign Ministry admit that they had been strongly supportive of the concept of liberalization of services for the last several years as part of building the EU Single Market. France is a leading supplier of services, and officials told us they always saw liberalization of this pillar of the EU Single Market as in their national interest. As part of the EU's Lisbon Strategy of 2000, the idea of a services directive received strong French support through 2004 in a series of annual Council meetings. Government officials admit that they had previously been fully supportive of the concept of liberalizing services

THE "FRANKENSTEIN" DIRECTIVE . . .

13. (SBU) Chirac and Prime Minister Raffarin's earlier opposition to the directive, called the Bolkestein directive by some, and now dubbed the "Frankenstein" directive by local critics, came in February 2005. Motivated by what is seen here as an excessively "liberal" approach - and reflecting a growing suspicion in France of the Barroso Commission, Chirac had called the text "unacceptable" and recommended it be "completely re-examined" (remise a plat, in French). Upon being circulated, the directive raised legal and technical questions among French government officials. GOF and private sector contacts told us that they had always seen some serious problems with the poor quality of drafting of the directive, a point confirmed by analysts in Paris and Brussels. Some claimed the member states consultation process had been rushed.

POLLS: THE TREND SHOWS THE NO VOTE STRENGTHENING

14. (U) The latest polls IPSOS Le Figaro poll, issued on Monday March 21 shows the No vote in the lead, by 52 percent versus 49 percent for the government side. Worrying the government is that while the May 29th referendum is 10 weeks off, the trend shows a steady decline of the Yes vote over the last three months. Other polls, such as the Sofres and the BVA polls in Le Monde and news magazine L'Express show the No vote increasing by nine percent since December 2004,

and the Yes vote declining by the same amount. Those polls, conducted a week earlier, show the Yes vote still winning by 56 percent to 44 percent.

LITTLE CHOICE BUT TO DEAL WITH IT

15. (SBU) The Services Directive involves the final piece of the most central EU legislation, the Single Market. For many observers, such an important piece of legislation would eventually have to be dealt with - if only after the May 29 referendum on the Constitution. During a March 16 lunch hosted by the Ambassador, former Finance Minister Francis Mer argued that the EU has little choice but to deal with the services issue. A proponent of strong EU ties, Mer said that one couldn't speak of real European economic integration without dealing with the service sector, which represents 70 percent of economic activity. As for the current EU proposed directive, Mer characterized it as "a bit blunt" and unfortunately timed, given the upcoming May constitutional referendum. He left little doubt, however, that he believes that the issue must be meaningfully addressed, sooner rather than later.

16. (SBU) Former Minister Mer lamented the fact that while "France's future goes through Europe", only the Finance Ministry ("Bercy") among GOF entities deals with Brussels on a daily basis. For other Ministries, Brussels is considered a constraint. (COMMENT: In our view, the difficult debate on the Stability Pact actually demonstrates just the opposite. END COMMENT.) Jean-Marie Paugam, former government official and trade analyst at IFRI, a semi-independent think tank, said that French demands to effectively neutralize large portions of the services directive would only result in those sectors being taken up in the WTO's Doha Development Round - to France's detriment.

PUBLIC OUTCRY: "SOCIAL DUMPING" AND "FRANKENSTEIN"

17. (SBU) The press and public reaction to the services directive has indeed been harsh and unforgiving. "There is no rational debate left on the "Bolkestein directive" said Paugam, the IFRI analyst. The public view has been blown up by negative press stereotypes about "liberalism" and "social dumping". With the French already in a questioning mood about their role in the new and different European Union, the press seized on an unrelated story about Latvian construction workers working in Sweden and their activities falling under the jurisdiction of the Latvian building and labor codes. Within days, this anecdote had become a symbol of what the services directive portended, i.e. unbridled access by low-wage workers from new member states to high-paying jobs and social infrastructure in wealthier member states. Politicians have also picked up the cudgel, on both sides of the aisle.

18. (SBU) The use of the sobriquet "Frankenstein directive" has touched an emotional nerve locally and provoked positive and negative reactions. The name Frankenstein raises emotional parallels for many with the French fight against biotechnology and GMOs (dubbed "Frankenstein foods"). Moreover, the use of the "Germanic" quality of the name brought out an angry response from former Commissioner Frits Bolkestein, who denounced what he called "French myopia" and "xenophobia among some" in a press interview (Le Figaro, March 21, 2005).

ON PAPER, THE GOF OBJECTIONS

189. (U) For the moment, French officials are working directly in Strasbourg and Brussels with the European Parliament and a Council Working Group (i.e. member states) to make the kind of amendments that will make the directive politically palatable in France. The main GOF objection is the scope of the directive, and with the principle and impact of the country of origin principle (COO).

1910. (U) THE TEXT'S SCOPE: the French have already communicated their desire to see a broad number of areas excluded from the directive, including financial services; telecom services, transportation services (except for funeral and cash/money transportation, e.g. Brinks), audiovisual services; professional services (including press, health, medical and social services, and lottery and gaming services). French officials say they have considerable support among selected member-states for excluding various sectors.

1011. (U) CLARITY ON PUBLIC SERVICES: The French feel that the text further blurs the line between "services of general interest" (SGI) and "services of general economic interest" (SGEI). In the EU's Lisbon strategy, Paris regularly pushed hard to include a chapter on improved public services. The European Commission uses SGEIs and SGIs to refer to a service of an economic nature that public authorities

provide for the benefit of their citizens via an operator, where the market will not provide it without State intervention. However, no formal definition exists in EU law, and historically it has been largely at the discretion of individual member states to determine what constitutes an SGEI or SGI. The principal French concern is that the directive is so nebulous on the subject as to invite a definitive (and thereby limiting) European Court of Justice ruling.

¶1112. (SBU) COUNTRY OF ORIGIN PRINCIPLE: Finally, the French also have both political and legal difficulties with the country-of-origin principle (COO) so lambasted in the local press. Quite apart from many of the misrepresented applications of COO, French officials in the Foreign Ministry point to a conflict with the 1997 labor and employment directives. However, they point to a possible compromise being discussed off-line in the Council Working Group that would impose the COO principle only in a vastly reduced number of areas where the regulatory structure is close to being harmonized.

COMMENT

¶1213. (SBU) With an eye on the upcoming constitutional referendum, and the polls showing the "No" vote steadily growing - if not overtaking the "Yes" vote, France's politicians smell blood and have moved into damage control mode. In an effort to save the day for the government on the Constitution, the Services Directive, despite good intentions, runs the risk of being rendered toothless, which would be a setback for the EU Single Market and the prospects for U.S. companies operating here.

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